

1 AYSA DONG
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4 In Pro Per

FILED

2008 JUN -2 P 42

RICHARD W. WIEKING
CLERK
U.S. DISTRICT COURT
NO. DIST. OF CA. S.J.

5
6
7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE NORTHERN DISTRICT OF CALIFORNIA
9 SAN JOSE DIVISION
10

11 UNITED STATES OF AMERICA,

12 Plaintiff,

13 vs.

14 1) \$1,774.65 IN WELLS FARGO
ACCOUNT XXXXXX4687;

15 2) \$4,906.28 IN BANK OF AMERICA
16 ACCOUNT XXXXXX1479;

17 3) \$18,944.75 IN E*TRADE
18 FINANCIAL ACCOUNT XXX-
22920;

19 4) 1998 SUZUKI SIDEKICK, VIN
JS3TD21V8W4100132,
20 CALIFORNIA LICENSE 4YYF388;
AND

21 5) MISCELLANEOUS FIREARMS
22 AND AMMUNITION,

23 Defendants.

No. C-08-00496 JF

AYSA DONG'S VERIFIED ANSWER TO
THE UNITED STATES OF AMERICA'S
COMPLAINT FOR FORFEITURE

JURY TRIAL REQUESTED

24
25 Claimant Aysa Dong hereby answers the United States of America's ("Plaintiff's")
26 verified complaint for forfeiture, *in rem*, ("Complaint") as follows:

GENERAL DENIAL

Except as expressly admitted herein, Ms. Dong denies each and every allegation in the Complaint.

SPECIFIC RESPONSES

JURISDICTION

1. Ms. Dong ADMITS that Plaintiff asserts jurisdiction under 28 U.S.C. §§ 1345 and 1355, and 18 U.S.C. § 981(a)(1)(G). To the extent that this paragraph alleges anything other than the above, such allegations are DENIED.

PARTIES

2. Ms. Dong ADMITS that Plaintiff is the United States of America.
3. Ms. Dong responds to paragraph 3 as follows:

FUNDS

- (a) ADMITS that Plaintiff has named \$1,774.65 in funds seized from Wells Fargo Account xxxxxx4687 held in the name of Rahmat Abdhir as Defendant;
- (b) ADMITS that Plaintiff has named \$4,906.28 in funds seized from Bank of America Account xxxxxx1479 held in the name of Rahmat Abdhir as Defendant;
- (c) ADMITS that Plaintiff has named \$18,944.75 in funds seized from E*Trade Financial Account xxx-22920 (also identified by account number xxxxxxxxxxxx1814) held in the name of Rahmat Abdhir as Defendant;

CONVEYANCE

- (d) ADMITS that Plaintiff has named 1998 Suzuki Sidekick, VIN JS3TD21V8W4100132, California License 4YYF388, as Defendant;

FIREARMS AND AMMUNITION¹

- (e) ADMITS that Plaintiff has named Pack West Arms Commando .223 Caliber Rifle, Serial Number 44177, as Defendant;
- (f) ADMITS that Plaintiff has named Ceska Zbrojovka Model CZ52 .762 caliber pistol, Serial Number FK14699, with a gun lock, as Defendant;
- (g) ADMITS that Plaintiff has named Romanian SAR1 .762 caliber AK-47 type rifle, Serial Number S1-17323-2000, as Defendant;
- (h) ADMITS that Plaintiff has named Russian SKS or M45 .762 caliber rifle, Serial Number CCCP17287, as Defendant;
- (i) ADMITS that Plaintiff has named Romanian Romak3 (Dragunov) .762 caliber rifle, Serial Number R46872000, as Defendant;
- (k)² ADMITS that Plaintiff has named Russian Mosin Nagant M44 .762 caliber rifle, Serial Number 44633, as Defendant;
- (l) ADMITS that Plaintiff has named 11 empty magazines (2 silver) as Defendant;
- (m) ADMITS that Plaintiff has named One Barrel in a soft zipper case as Defendant;
- (n) ADMITS that Plaintiff has named One Bayonet as Defendant;
- (o) ADMITS that Plaintiff has named Green ammunition box containing 13 unopened packs of ammunition as Defendant;
- (p) ADMITS that Plaintiff has named 54 loose rounds as Defendant;
- (q) ADMITS that Plaintiff has named 2 black magazines as Defendant;

¹Ms. Dong does not asset any interest or rights in the property identified in subparagraphs (e) through (s).

²The Complaint omits a subparagraph (j), proceeding directly from (i) to (k). This Answer follows the format of the Complaint.

1 (r) ADMITS that Plaintiff has named 7 boxes of Wolf ammunition as
2 Defendant; and

3 (s) ADMITS that Plaintiff has named 4 boxes of Centerfire ammunition as
4 Defendant.

5 4. Ms. Dong is without sufficient knowledge or information to form a belief as to the
6 allegations contained in this paragraph and, on this basis, DENIES them.

7 5. Ms. Dong is without sufficient knowledge or information to form a belief as to the
8 allegations contained in this paragraph and, on this basis, DENIES them.

9 **VENUE**

10 6. Ms. Dong ADMITS that Plaintiff asserts venue lies in the Northern District of
11 California pursuant to 28 U.S.C. §§ 1355(b) and 1395(a) and (b). To the extent that this
12 paragraph alleges anything other than the above, such allegations are DENIED.

13 **INTRADISTRICT ASSIGNMENT**

14 7. Ms. Dong is without sufficient knowledge or information to form a belief as to the
15 allegations contained in this paragraph and, on this basis, DENIES them.

16 **FACTS**

17 8. Ms. Dong incorporates by reference her specific responses to paragraphs 1 through
18 7.

19 9. Ms. Dong is without sufficient knowledge or information to form a belief as to the
20 allegations contained in this paragraph and, on this basis, DENIES them.

21 10. Ms. Dong is without sufficient knowledge or information to form a belief as to the
22 allegations contained in this paragraph and, on this basis, DENIES them.

23 11. Ms. Dong is without sufficient knowledge or information to form a belief as to the
24 allegations contained in this paragraph and, on this basis, DENIES them.

25 12. Ms. Dong is without sufficient knowledge or information to form a belief as to the
26 allegations contained in this paragraph and, on this basis, DENIES them.

1 13. Ms. Dong is without sufficient knowledge or information to form a belief as to the
2 allegations contained in this paragraph and, on this basis, DENIES them.

3 14. Ms. Dong is without sufficient knowledge or information to form a belief as to the
4 allegations contained in this paragraph and, on this basis, DENIES them.

5 15. Ms. Dong is without sufficient knowledge or information to form a belief as to the
6 allegations contained in this paragraph and, on this basis, DENIES them.

7 16. Ms. Dong is without sufficient knowledge or information to form a belief as to the
8 allegations contained in this paragraph and, on this basis, DENIES them.

9 17. Ms. Dong is without sufficient knowledge or information to form a belief as to the
10 allegations contained in this paragraph and, on this basis, DENIES them.

11 18. Ms. Dong is without sufficient knowledge or information to form a belief as to the
12 allegations contained in this paragraph and, on this basis, DENIES them.

13 19. Ms. Dong is without sufficient knowledge or information to form a belief as to the
14 allegations contained in this paragraph and, on this basis, DENIES them.

15 20. Ms. Dong is without sufficient knowledge or information to form a belief as to the
16 allegations contained in this paragraph and, on this basis, DENIES them.

17 21. Ms. Dong is without sufficient knowledge or information to form a belief as to the
18 allegations contained in this paragraph and, on this basis, DENIES them.

19 22. Ms. Dong is without sufficient knowledge or information to form a belief as to the
20 allegations contained in this paragraph and, on this basis, DENIES them.

21 23. Ms. Dong is without sufficient knowledge or information to form a belief as to the
22 allegations contained in this paragraph and, on this basis, DENIES them.

23 24. Ms. Dong is without sufficient knowledge or information to form a belief as to the
24 allegations contained in this paragraph and, on this basis, DENIES them.

25 25. Ms. Dong is without sufficient knowledge or information to form a belief as to the
26 allegations contained in this paragraph and, on this basis, DENIES them.

1 26. Ms. Dong is without sufficient knowledge or information to form a belief as to the
2 allegations contained in this paragraph and, on this basis, DENIES them.

3 27. Ms. Dong is without sufficient knowledge or information to form a belief as to the
4 allegations contained in this paragraph and, on this basis, DENIES them.

5 28. Ms. Dong is without sufficient knowledge or information to form a belief as to the
6 allegations contained in this paragraph and, on this basis, DENIES them.

7 29. Ms. Dong is without sufficient knowledge or information to form a belief as to the
8 allegations contained in this paragraph and, on this basis, DENIES them.

9 30. Ms. Dong is without sufficient knowledge or information to form a belief as to the
10 allegations contained in this paragraph and, on this basis, DENIES them.

11 31. Ms. Dong is without sufficient knowledge or information to form a belief as to the
12 allegations contained in this paragraph and, on this basis, DENIES them.

13 32. Ms. Dong is without sufficient knowledge or information to form a belief as to the
14 allegations contained in this paragraph and, on this basis, DENIES them.

15 33. Ms. Dong is without sufficient knowledge or information to form a belief as to the
16 allegations contained in this paragraph and, on this basis, DENIES them.

17 34. Ms. Dong is without sufficient knowledge or information to form a belief as to the
18 allegations contained in this paragraph and, on this basis, DENIES them.

19 35. Ms. Dong is without sufficient knowledge or information to form a belief as to the
20 allegations contained in this paragraph and, on this basis, DENIES them.

21 36. Ms. Dong is without sufficient knowledge or information to form a belief as to the
22 allegations contained in this paragraph and, on this basis, DENIES them.

23 37. Ms. Dong is without sufficient knowledge or information to form a belief as to the
24 allegations contained in this paragraph and, on this basis, DENIES them.

25 38. Ms. Dong is without sufficient knowledge or information to form a belief as to the
26 allegations contained in this paragraph and, on this basis, DENIES them.

1 39. Ms. Dong is without sufficient knowledge or information to form a belief as to the
2 allegations contained in this paragraph and, on this basis, DENIES them.

3 40. Ms. Dong is without sufficient knowledge or information to form a belief as to the
4 allegations contained in this paragraph and, on this basis, DENIES them.

5 41. Ms. Dong is without sufficient knowledge or information to form a belief as to the
6 allegations contained in this paragraph and, on this basis, DENIES them.

7 42. Ms. Dong is without sufficient knowledge or information to form a belief as to the
8 allegations contained in this paragraph and, on this basis, DENIES them.

9 43. Ms. Dong is without sufficient knowledge or information to form a belief as to the
10 allegations contained in this paragraph and, on this basis, DENIES them.

11 44. Ms. Dong is without sufficient knowledge or information to form a belief as to the
12 allegations contained in this paragraph and, on this basis, DENIES them.

13 45. Ms. Dong is without sufficient knowledge or information to form a belief as to the
14 allegations contained in this paragraph and, on this basis, DENIES them.

15 46. Ms. Dong is without sufficient knowledge or information to form a belief as to the
16 allegations contained in this paragraph and, on this basis, DENIES them.

17 47. Ms. Dong is without sufficient knowledge or information to form a belief as to the
18 allegations contained in this paragraph and, on this basis, DENIES them.

19 48. Ms. Dong is without sufficient knowledge or information to form a belief as to the
20 allegations contained in this paragraph and, on this basis, DENIES them.

21 49. Ms. Dong is without sufficient knowledge or information to form a belief as to the
22 allegations contained in this paragraph and, on this basis, DENIES them.

23 50. Ms. Dong is without sufficient knowledge or information to form a belief as to the
24 allegations contained in this paragraph and, on this basis, DENIES them.

25 51. Ms. Dong is without sufficient knowledge or information to form a belief as to the
26 allegations contained in this paragraph and, on this basis, DENIES them.

1 52. Ms. Dong is without sufficient knowledge or information to form a belief as to the
2 allegations contained in this paragraph and, on this basis, DENIES them.

3 53. Ms. Dong is without sufficient knowledge or information to form a belief as to the
4 allegations contained in this paragraph and, on this basis, DENIES them.

5 54. Ms. Dong is without sufficient knowledge or information to form a belief as to the
6 allegations contained in this paragraph and, on this basis, DENIES them.

7 **CLAIM FOR RELIEF**

8 **18 U.S.C. § 981(a)(1)(G)(iv)**

9 55. Ms. Dong incorporates by reference her specific responses to paragraphs 1 through
10 54.

11 56. The allegations in paragraph 56 contain a legal conclusion to which no response is
12 required. To the extent this paragraph requires a response, such allegations are DENIED.

13 57. The allegations in paragraph 57 contain a legal conclusion to which no response is
14 required. To the extent this paragraph requires a response, such allegations are DENIED.

15 58. Ms. Dong DENIES the allegations set forth in this paragraph.

16 **AFFIRMATIVE DEFENSES AS TO ALL CAUSES OF ACTION**

17 As separate and distinct affirmative defenses to the Complaint, and to each and every
18 purported cause of action therein, Ms. Dong is informed and believes, and thereon alleges, as
19 follows:

20 **FIRST AFFIRMATIVE DEFENSE**
21 **(Failure to State a Claim)**

22 The Complaint, and each purported cause of action set forth therein, fails to state a claim
23 upon which relief can be granted against \$1,774.65 in funds seized from Wells Fargo Account
24 xxxxxx4687.

25 **SECOND AFFIRMATIVE DEFENSE**
26 **(Failure to State a Claim)**

 The Complaint, and each purported cause of action set forth therein, fails to state a claim

1 upon which relief can be granted against \$4,906.28 in funds seized from Bank of America
2 Account xxxxxx1479.

3 **THIRD AFFIRMATIVE DEFENSE**
4 **(Failure to State a Claim)**

5 The Complaint, and each purported cause of action set forth therein, fails to state a claim
6 upon which relief can be granted against \$18,944.75 in funds seized from E*Trade Financial
7 Account xxx-22920 (also identified by account number xxxxxxxxxxx1814).

8 **FOURTH AFFIRMATIVE DEFENSE**
9 **(Failure to State a Claim)**

10 The Complaint, and each purported cause of action set forth therein, fails to state a claim
11 upon which relief can be granted against 1998 Suzuki Sidekick, VIN JS3TD21V8W4100132,
12 California License 4YYF388.

13 **FIFTH AFFIRMATIVE DEFENSE**
14 **(Statute of Limitations)**

15 Plaintiff's alleged causes of action, and each of them, are barred, in whole or in part, by
16 the applicable statute of limitations.

17 **SIXTH AFFIRMATIVE DEFENSE**
18 **(Laches)**

19 Plaintiff's alleged causes of action, and each of them, are barred, in whole or in part, by
20 the doctrine of laches.

21 **SEVENTH AFFIRMATIVE DEFENSE**
22 **(Innocent Owner)**

23 Plaintiff's alleged causes of action, and each of them, are barred, in whole or in part,
24 because Ms. Dong is an innocent owner of defendant funds and vehicle, pursuant to 18 U.S.C. §
25 983(d).

26 **EIGHTH AFFIRMATIVE DEFENSE**
(Eighth Amendment)

Plaintiff's alleged causes of action, and each of them, are barred, in whole or in part,
because forfeiture of the defendant funds and vehicle would be excessive, in violation of the

1 Eighth Amendment of the United States Constitution.

2 **NINTH AFFIRMATIVE DEFENSE**
3 **(Ex Post Facto)**

4 Plaintiff's alleged causes of action, and each of them, are barred, in whole or in part,
5 because forfeiture of the defendant funds and vehicle under 18 U.S.C. § 981(a)(1)(A) violates the
6 Ex Post Facto Clause of Article I, §§ 9 and 10 of the United States Constitution.

7 **TENTH AFFIRMATIVE DEFENSE**
8 **(Lack of Particularity)**

9 Plaintiff's alleged causes of action, and each of them, are barred, in whole or in part,
10 because the Complaint does not contain sufficient particularity to satisfy Rule E(2) of the
11 Supplemental Rules for Certain Admiralty and Maritime Claims of the Federal Rules of Civil
12 Procedure.

13 **PRAYER FOR RELIEF**

14 Ms. Dong prays for the following relief against Plaintiff:

- 15 1. Plaintiff take nothing by the Complaint;
16 2. The Complaint be dismissed with prejudice;
17 3. Judgment be entered against Plaintiff and in favor of Ms. Dong;
18 4. Such other and further relief as is just and proper.

19 **DEMAND FOR JURY TRIAL**

20 Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Ms. Dong hereby demands a
21 trial by jury as to all issues so triable in the Complaint.

22 Dated: June 2, 2008

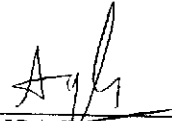
23 Respectfully submitted,

24 
25 **AYSA DONG**
26 **In Pro Per**

VERIFICATION

I, Aysa Dong, hereby declare under penalty of perjury that I have read the foregoing
AYSA DONG'S VERIFIED ANSWER TO THE UNITED STATES OF AMERICA'S
COMPLAINT FOR FORFEITURE and know the contents thereof, and that it is true and correct
from my own knowledge, except as to those matters stated upon information and belief, and as to
those matters I and informed and believe them to be true.

Executed this 2nd day of June, 2008, at San Jose, California.



AYSA DONG